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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,688	10/08/2003	J. Christopher Flaherty	59249-0159 (INSL-118CN)	7709
36310	7590	03/24/2005	EXAMINER KENNEDY, SHARON E	
INSULET CORPORATION 9 Oak Park Drive Bedford, MA 01730			ART UNIT 3762	PAPER NUMBER

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,688

Applicant(s)

FLAHERTY, J. CHRISTOPHER

Examiner

Sharon Kennedy

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,51 and 89-97 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 89-97 is/are allowed.
- 6) ☒ Claim(s) 1 and 51 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date all.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action or the MPEP.

Specification

The disclosure is objected to because of the following informalities: The specification needs to be updated in the beginning paragraph to include a reference to the parent application. Appropriate correction is required.

Double Patenting

Claims 1 and 51 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-86 of U.S. Patent No. 6,692,457. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of this application encompass the claims of the parent.

Claims 1 and 51 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-86 of U.S. Patent No. 6,830,558. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of this application encompass the claims of the parent.

Allowable Subject Matter

Claims 89-97 are allowed.

Claims 1 and 51 would be allowed if terminal disclaimers were filed.

The following is a statement of reasons for the indication of allowable subject matter: Burkett remains the closest prior art. The claims require a flow path and a flow

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condition sensor assembly having a resilient diaphragm, the first surface of the diaphragm being positioned again the flow path. However, Burkett fails to disclose the chamber wall adjacent the second surface of the diaphragm and defining a sensor chamber. This arrangement provides a threshold signal as claimed. None of the prior art discloses or suggests this arrangement.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Kennedy whose telephone number is 571/272-4948. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571/272-4955.

Information regarding the status of an application may be obtained by going to www.uspto.gov, clicking on "Status &IFW", entering the application number, and then clicking on one of the tabs to retrieve the appropriate information.


Sharon Kennedy
Primary Examiner
Art Unit 3762